

REMARKS

Applicant hereby adds new claims 62-65 and cancels claim 45. Accordingly, claims 1-44 and 46-65 are pending in the present application.

Claims 21-24, 36-50, 60 and 61 stand rejected for anticipation by U.S. Patent No. 6,084,512 to Elberty et al. Claims 5-15 and 25-29 stand rejected for obviousness over Elberty. Claims 1-4, 16-20, 30-35 and 51-59 stand rejected for obviousness over Elberty in view of U.S. Patent No. 6,198,392 to Hahn et al.

Applicant respectfully traverses the rejections and urges allowance of the present application.

Referring to the rejection of claims 1-4 and 51-57, the Hahn patent and the current application are owned by Micron Technology, Inc. and the rejection under 103 in view of Hahn is improper under 35 U.S.C. §103(c). The obviousness rejection is improper and Applicant respectfully requests allowance of claim 1 in the next Action.

Referring to claim 5, it is stated that Elberty does not expressly disclose a data port for receiving data. However, it is stated that Elberty discloses microprocessor 516 which includes an input for receiving data and processing the data for comparison and to determine the requested identifier. Thereafter, it is stated that it is merely obvious that the microprocessor includes a port or input for receiving and processing data. Applicant disagrees with the rejection of claim 5.

Claim 5 recites communication circuitry configured to receive a wireless signal including data and to write the data to a data port responsive to the processing of the identifier, and indication circuitry configured to receive the data and to indicate presence

of the remote communication device responsive to the data. Specific teachings of Elberty in column 10, lines 45-50 merely state that processor 516 also turns on a green light emitting diode 518. There is absolutely no disclosure or suggestion of the claimed communication circuitry configured to receive a wireless signal including data and to write the data to a data port, and the indication circuitry is configured to receive the data and to indicate presence responsive to the data as recited in claim 5. The identified teachings in columns 9 and 10 of Elberty fail to disclose or suggest the limitations of claim 5 and claim 5 is allowable for at least this reason.

On page 7 it is stated that it is merely obvious that the microprocessor includes a port or input for receiving and processing data. However, even if such statements are true, such modified teachings of Elberty fail to disclose or suggest limitations of claim 5. Claim 5 states that the communication circuitry is configured to *write the data to the data port*. Accordingly, even if Elberty suggests a port or input for receiving and processing data, such suggestion fails to disclose or suggest writing of data to a data port.

Further, the statements in the Office Action regarding the data port fail to disclose or suggest the indication circuitry receiving the data and indicating presence of the remote communication device responsive to the data as defined in claim 5. The mere provision of a data port fails to disclose or suggest indicating presence responsive to data received within a wireless signal as defined in claim 5. Accordingly, even if the teachings of Elberty are modified, such modified teachings fail to disclose or suggest limitations of claim 5 and claim 5 is allowable for at least this additional reason.

Still pertaining to claim 5, there is no motivation to modify or combine the teachings

of Elberty in support of the obviousness rejection. Referring to MPEP §2143.01 (8th ed.), there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine reference teachings. The mere fact that references *can* be combined or modified does not render the resultant combination obvious *unless the prior art also suggests the desirability of the combination.* MPEP §2143.01 *citing In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Obviousness cannot be established by a combination of references unless there is some motivation in the art to support the combination. See *ACH Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). The motivation for forming the combination must be something other than hindsight reconstruction based on using Applicant's invention as a road map for such a combination. See, e.g., *Interconnect Planning Corp. v. Feil*, 227 USPQ 543, 551 (Fed. Cir. 1985); *In re Mills*, 16 USPQ2d 1430 (Fed. Cir. 1990). The rejection of claim 5 is improper for at least this additional reason.

Claim 5 stands rejected under 35 USC §103(a) for obviousness over a single reference. Pursuant to §2144.03 of the M.P.E.P. (8th ed.), Applicants hereby request the submission of an affidavit or the identification of prior art which discloses the features not found in the single reference and which is properly combinable with the reference. "[A]ssertions of technical facts in areas of esoteric technology must always be supported by citation of some reference work" and "allegations concerning specific 'knowledge' of the prior art, which might be peculiar to a particular art should also be supported." *In re Ahlert*, 424 F.2d 1088, 165 USPQ 418, 420-421 (CCPA 1970).

The claims which depend from independent claim 5 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to the rejection of claim 11, Elberty fails to disclose or suggest *communication circuitry configured to write data to a data port, indication circuitry including a latch coupled with the data port and configured to receive the data, and an indicator configured to output a signal to indicate presence of the remote communication device responsive to the data received within the latch.* In the third line of page 8 of the Office Action, it is stated that communication circuitry includes a processor 516. Thereafter, in the last sentence of the first paragraph on page 8 of the Office Action it is stated that processor 516 acts as a latch. Applicant claims separate circuitry including communication circuitry configured to write data to a data port and indication circuitry including a latch coupled with the data port. The identification of teachings of Elberty which allegedly disclose or suggest limitations of claim 11 are non-sensical inasmuch as the processor 516 is identified as allegedly disclosing the claimed communication circuitry configured to write data to a data port and indication circuitry including a latch configured to receive the data of claim 11. Nonetheless, as discussed above, the teachings of processor 516 merely provide turning on the LED with no further operational details. The mere turning on of the LED fails to disclose or suggest the claimed indication circuitry configured to output a signal to indicate presence responsive to the data received within the latch. Numerous positively recited limitations of claim 11 are not shown or suggested in the prior art of record and claim 11 is allowable for at least this reason.

Further, apart from improper utilization of Applicant's disclosure as a roadmap, there is absolutely no motivation to modify the teachings of Elberty or combine other teachings with Elberty in support of the obviousness rejection. Numerous alternatives exist and Applicant submits there is absolutely no motivation to utilize the claimed configuration defined in claim 11 without improper utilization of Applicant's disclosure as a roadmap. Claim 11 recites limitations not shown or suggested in the art and claim 11 is allowable for at least this reason.

The claims which depend from independent claim 11 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to claims 16-20, the obviousness rejection over the Hahn reference is improper under 103(c) and Applicant respectfully requests allowance of claim 16 for at least this reason.

Claim 21 recites an identification system comprising plural radio frequency identification devices. Under section 2 on page 2 of the Action, reference 50 are identified as allegedly disclosing the claimed radio frequency identification devices. Applicant has electronically searched the Elberty reference and has failed to uncover any RFID or radio frequency identification device teachings and the generic tag teachings of Elberty fail to disclose or suggest the specific radio frequency identification devices defined in claim 21. Applicant respectfully refers the Examiner to the RFID technology description in the web page materials of www.aimglobal.org previously filed by Applicant in an IDS and of record in the present application. Positively recited limitations of claim 21 are not shown or

suggested in the prior art of record and claim 21 is allowable for at least this reason.

The claims which depend from independent claim 21 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Claim 25 recites an identification system comprising, in part, an interrogator and a plurality of remote communication devices individually including communication circuitry configured to selectively write data from a wireless signal to a data port responsive to processing an identifier and indication circuitry configured to receive the data and to indicate presence of the respective remote communication device responsive to the data. Claim 25 recites patentable subject matter.

The cursory teachings of Elberty merely state that processor 516 turns on the LED. The cursory teachings fail to disclose or suggest *writing data from a wireless signal to a data port and the indication circuitry indicates presence responsive to the data.* Positively recited limitations of claim 25 are not shown or suggested in the prior art and claim 25 is allowable for at least this reason.

There is no motivation in support of the 103 rejection. The rejection of claim 25 is improper for at least this additional reason.

The claims which depend from independent claim 25 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

The obviousness rejection of claims 30-35 in view of the Hahn reference is improper. Applicant respectfully requests allowance of claims 30-35 in the next Action.

Referring to claim 36, the mere turning on LED 518 using processor 516 fails to disclose or suggest receiving a *wireless signal including data* within the remote communication device, *selectively outputting the data to indication circuitry* of the remote communication device after the processing, and *emitting a human perceptible signal using the indication circuitry after the outputting the data* as specified in claim 36. Limitations of claim 36 are not shown or suggested in the prior art of record and claim 36 is allowable for at least this reason.

The claims which depend from independent claim 36 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Claim 40 recites providing a plurality of radio frequency identification devices individually including indication circuitry. The Elberty reference fails to disclose or suggest RFID or radio frequency identification device teachings. Positively recited limitations of claim 40 are not shown or suggested in the art and claim 40 is allowable for at least this reason.

The claims which depend from independent claim 40 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Claim 46 recites an identification method comprising, in part, providing a plurality of radio frequency identification devices individually including indication circuitry. Elberty fails to disclose or suggest RFID or radio frequency identification device teachings. Positively recited limitations of claim 46 are not shown or suggested in the art and claim

46 is allowable for at least this reason.

The claims which depend from independent claim 46 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

New claims 64-65 correspond to previously pending dependent claims 58 and 59. Claims 58 and 59 were improperly rejected under 35 U.S.C. §103 over Elberty in view of Hahn. The obviousness rejection over Hahn is improper and new claims 64-65 are allowable for at least this reason.

In the event that a rejection of the claims is maintained with respect to the prior art, or a new rejection made, Applicants respectfully request identification *in a non-final action* of elements which allegedly correspond to limitations of the claims in accordance with 37 C.F.R. §1.104(c)(2). In particular, 37 C.F.R. §1.104(c)(2) provides that *the pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified*. Further, 37 C.F.R. §1.104(c)(2) states that the Examiner must cite the best references at their command. When a reference is complex or shows or describes inventions other than that claimed by Applicants, the particular teachings relied upon must be designated as nearly as practicable. The pertinence of each reference if not apparent must be clearly explained for each rejected claim specified. Applicants respectfully request clarification of the rejections with respect to specific references and specific references teachings therein pursuant to 37 C.F.R. §1.104(c)(2) in a non-final Action if any claims are not found to be allowable.

Applicant respectfully requests allowance of all pending claims.

The Examiner is requested to phone the undersigned if the Examiner believes such would facilitate prosecution of the present application. The undersigned is available for telephone consultation at any time during normal business hours (Pacific Time Zone).

Respectfully submitted,

Dated: 9/16/02

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Group Art Unit 2632
Examiner T. Pham
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VERSION WITH MARKINGS TO SHOW CHANGES MADE ACCOMPANYING
RESPONSE TO JUNE 14, 2002 OFFICE ACTION

In the Claims

The claims have been amended as follows. Underlines indicate insertions and ~~strikeouts~~ indicate deletions.

40 (Twice Amended) An identification method comprising:
providing a plurality of remote communication devices comprising radio frequency
identification devices individually including indication circuitry;
associating the remote communication devices with respective plural objects;
outputting a wireless signal to identify at least one object;
receiving the wireless signal within the remote communication devices; and
indicating presence of the at least one selected object using the indication circuitry
of the remote communication device associated with the at least one selected object; and
outputting another wireless signal responsive to the receiving using the remote
communication device associated with the at least one selected object.

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